

Railroad Retirement Board

§ 261.9

who is found not to be at fault in causing the erroneous award; provided, however, that this exception shall not operate to permit payment of benefits for any month in which the claimant is found to be engaged in compensated service.

(b) An award of an annuity based on a subsequently discovered erroneous crediting of months of service and compensation to a claimant where:

(1) The loss of such months of service and compensation will cause the applicant to lose his or her eligibility for an annuity previously awarded;

(2) The erroneously credited months of service do not exceed six months; and

(3) The annuitant is found not to be at fault in causing the erroneous crediting.

(c) An erroneous award of an annuity where the error is no greater than one dollar per month per annuity affected.

(d) An erroneous award of a lump sum or accrued annuity payment where the error is no greater than \$25.00.

§ 261.5 Late completion of timely investigation.

(a) A decision may be revised after the applicable time period in § 261.2(a) or § 261.2(b) of this part expires if the Railroad Retirement Board begins an investigation into whether to revise the decision before the applicable time period expires and the agency diligently pursues the investigation to the conclusion. The investigation may be based on a request by a claimant or on action by the Railroad Retirement Board.

(b) *Diligently pursued* for purposes of this section means that in view of the facts and circumstances of a particular case, the necessary action was undertaken and carried out as promptly as the circumstances permitted. Diligent pursuit will be presumed to have been met if the investigation is concluded and, if necessary, the decision is revised within 6 months from the date the investigation began.

(c) If the investigation is not diligently pursued to its conclusion, the decision will be revised if a revision is applicable and if it is favorable to the claimant. It will not be revised if it would be unfavorable to the claimant.

§ 261.6 Notice of revised decision.

(a) When a decision is revised, notice of the revision will be mailed to the parties to the decision at their last known address. The notice will state the basis for the revised decision and the effect of the revision. The notice will also inform the parties of the right to further review.

(b) If a hearings officer or the three-member Board proposes to revise a decision, and the revision would be based only on evidence included in the record on which the prior decision was based, all parties will be notified in writing of the proposed action. If a revised decision is issued by a hearings officer, any party may request that it be reviewed by the three-member Board, or the three-member Board may review the decision on its own initiative.

§ 261.7 Effect of revised decision.

A revised decision is binding unless:

(a) The revised decision is reconsidered or appealed in accord with part 260 of this chapter;

(b) The three-member Board reviews the revised decision; or

(c) The revised decision is further revised consistent with this part.

§ 261.8 Time and place to request review of a revised decision.

A party to a revised decision may request, as appropriate, further review of the decision in accordance with the rules set forth in part 260 of this chapter.

§ 261.9 Finality of findings when later claim is filed on same earnings record.

If two claims for benefits are filed on the same record of compensation, findings of fact made in a decision in the first claim may be revised in determining or deciding the second claim, even though the time limit for revising the findings made in the first claim has passed. However, a finding in connection with a claim that a person was fully or currently insured at the time of filing an application, at the time of death, or any other pertinent time, may be revised only under the conditions stated in § 261.2 of this part.